

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Lamont Cutner,)	C/A No.: 6:12-cv-02545-GRA
)	
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
Lt. Dante Wright; Capt. McBride;)	
Warden McCabe; Officer Adam;)	
Officer Middleton; Sgt. Lyde; Thomas)	
Sears; and Captain Cotez,)	
)	
Defendants.)	
)	

This matter comes before the Court for review of United States Magistrate Judge Kevin F. McDonald's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d) of the District of South Carolina, and filed on March 19, 2013. Plaintiff Lamont Cutner ("Plaintiff"), a South Carolina Department of Corrections ("SCDC") inmate proceeding *pro se*, filed this action on August 31, 2012, pursuant to 42 U.S.C. § 1983.¹ ECF No. 1. The Defendants filed a motion for summary judgment on January 21, 2013.² ECF No. 71. An order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), was issued by the Magistrate Judge on January 22, 2013. ECF No. 75. Plaintiff

¹ Prisoner pleadings are deemed filed at the time that they are delivered to prison authorities for mailing to the Court's clerk office. *See Houston v. Lack*, 487 U.S. 266 (1988).

² The Defendants originally filed a motion for summary judgment on December 26, 2012. ECF No. 60. The Court rendered the original motion moot, because the Defendants timely filed a second motion for summary judgment, memorandum of law, and supporting exhibits. ECF No. 94.

filed responses in opposition to Defendants' motion for summary judgment on or around January 16, 2013, and February 7, 2013. ECF Nos. 73 & 81.

Under established procedure in this judicial district, Magistrate Judge McDonald made a careful review of the *pro se* complaint pursuant to the procedural provisions of 28 U.S.C. § 1915, 28 U.S.C. § 1915A, and the Prison Litigation Reform Act. The magistrate recommends that this Court grant the Defendants' Motion for Summary Judgment. Report and Recommendation, ECF No. 94. Neither party objected to the Report and Recommendation. For the reasons discussed herein, this Court adopts the Report and Recommendation in its entirety.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982). A court may not construct the plaintiff's legal arguments for him, *Small v. Endicott*, 998 F.2d 411 (7th Cir.1993), nor is a district court required to recognize "obscure or extravagant claims defying the most concerted efforts to unravel them." *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277 (4th Cir.1985), *cert. denied*, 475 U.S. 1088 (1986).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71

(1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Furthermore, "[t]he failure to file objections to the report and recommendation waives any further right to appeal." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); see *Carter v. Pritchard*, 34 F. App'x 108, 108 (4th Cir. 2002) (per curiam). Objections were due on April 5, 2013. Neither the Defendants nor Plaintiff have filed any objections to the Report and Recommendation.

After a review of the record, this Court finds that the Magistrate Judge's Report and Recommendation accurately summarizes the case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the Defendants' Motion for Summary Judgment is GRANTED and that Plaintiff's claims are DISMISSED *without prejudice*.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", written over a horizontal line.

G. Ross Anderson, Jr.
Senior United States District Judge

April 22, 2013
Anderson, South Carolina